

(A) Total phosphorus concentrations in the Everglades; and

(B) Lake Okeechobee phosphorus concentrations.

(iii) Ecological responses, including:

(A) Increases in total spatial extent of restored wetlands;

(B) Improvement in habitat quality; and

(C) Improvement in native plant and animal abundance.

(3) In developing the interim goals based upon water quality and expected ecological responses, the Corps of Engineers, The Department of the Interior, and the South Florida Water Management District shall take into consideration the extent to which actions undertaken by Federal, State, tribal, and other entities under programs not within the scope of this part may affect achievement of the goals.

(d) *Process for establishing interim goals.* (1) The recommendations of RECOVER shall be provided to the Corps of Engineers, the Department of the Interior, and the South Florida Water Management District. These recommendations shall be provided no later than June 14, 2004. The proposed Interim Goals Agreement shall be developed by the Secretary of the Army, the Secretary of the Interior and the Governor in consultation with the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Environmental Protection Agency, the Department of the Commerce, other Federal, State, and local agencies, and the South Florida Ecosystem Restoration Task Force. In considering the interim goals to be included in the Interim Goals Agreement, the Secretary of the Army, the Secretary of the Interior, and the Governor, shall be provided with, and consider, the technical recommendations of RECOVER and any modifications to those recommendations by the Corps of Engineers, the Department of Interior, or the South Florida Water Management District. The Secretary of the Army shall provide a notice of availability of the proposed agreement to the public in the FEDERAL REGISTER and seek public comments. After considering comments of the public on the proposed agreement, and incorporating any suggestions that are appropriate and con-

sistent with the goals and purposes of the Plan, the Secretary of the Army, the Secretary of the Interior, and the Governor, shall execute the final agreement, and the Secretary of the Army shall provide a notice of availability to the public in the FEDERAL REGISTER by no later than December 13 2004.

(2) In developing its recommendations for interim goals, RECOVER shall use the principles in paragraph (c) of this section.

(3) The Secretary of the Army, the Secretary of the Interior, and the Governor shall review the Interim Goals Agreement at a minimum of every five years after the date of the Interim Goals Agreement, to determine if the interim goals should be revised. Thereafter, the Secretary of the Army, the Secretary of the Interior, and the Governor shall revise the interim goals and execute a new agreement as appropriate. However, the Secretary of the Army, the Secretary of the Interior, and the Governor may review and revise the interim goals whenever appropriate as new information becomes available. Any revisions to the interim goals shall be consistent with the process established in this section.

§ 385.39 Evaluating progress towards other water-related needs of the region provided for in the Plan.

(a) *Purpose.* (1) The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. Progress towards providing for these other water-related needs shall also be evaluated.

(2) As provided for in paragraph (c) of this section, the Secretary of the Army and the Governor shall establish interim targets for evaluating progress towards other water-related needs of the region provided for in the Plan throughout the implementation process. The interim targets and interim goals shall be consistent with each other.

(3) The Department of the Army shall include these interim targets in appropriate Corps of Engineers guidance.

(4) To ensure flexibility in implementing the Plan over the next several

decades, and to ensure that interim targets may reflect changed circumstances or new information resulting from adaptive management, the interim targets may be modified, consistent with the processes set forth in paragraph (c) of this section, to reflect new information resulting from changed or unforeseen circumstances, new scientific and technical information, new or updated modeling; information developed through the assessment principles contained in the Plan; and future authorized changes to the Plan integrated into the implementation of the Plan.

(5) The Corps of Engineers and the South Florida Water Management District shall sequence and schedule projects as appropriate to achieve the interim goals and interim targets for other water-related needs of the region provided for in the Plan, to the extent practical given funding, technical, or other constraints.

(6) If the interim targets have not been met or are unlikely to be met, then the Corps of Engineers and the South Florida Water Management District shall determine why the interim targets have not been met or are unlikely to be met and either:

(i) Initiate adaptive management actions pursuant to §385.31(d) to achieve the interim targets as soon as practicable, consistent with the purposes of the Plan and consistent with the interim goals established pursuant to §385.38; or

(ii) Recommend changes to the interim targets in accordance with paragraph (a)(4) of this section.

(b) *Principles for developing interim targets.* (1) RECOVER, using best available science and information, shall recommend a set of interim targets for evaluating progress towards other water-related needs of the region provided for in the Plan. These interim targets shall reflect the incremental accomplishment of the expected performance level of the Plan, and will identify improvements in quantity, quality, timing and distribution of water in five-year increments that begin in 2005, with the targets reflecting the results expected to be achieved by 2010 and for each five-year increment thereafter. The interim targets

shall be developed through the use of appropriate models and tools and shall provide a quantitative basis for evaluating progress towards other water-related needs of the region provided for in the Plan during the period of implementation. In developing the interim targets for the five-year increments, RECOVER shall use the Master Implementation Sequencing Plan as the basis for predicting the performance at a given time. RECOVER may recommend additional interim targets for implementation of CERP in addition to those initially developed and may propose revisions to the initial set of interim targets as new information is gained through adaptive management.

(2) In developing its recommendations for interim targets, RECOVER shall consider indicators including, but not limited to:

(i) The frequency of water restrictions in the Lower East Coast Service Areas at each time increment;

(ii) The frequency of water restrictions in the Lake Okeechobee Service Areas at each time increment;

(iii) The frequency of meeting salt-water intrusion protection criteria for the Lower East Coast Service Area at each time increment; and

(iv) The frequency of water shortage restrictions on lands covered under the Water Rights Compact Among the Seminole Tribe of Florida, the State of Florida, and the South Florida Water Management District at each time increment.

(c) *Process for establishing interim targets.* (1) The recommendations of RECOVER shall be provided to the Corps of Engineers and the South Florida Water Management District. These recommendations shall be provided no later than June 14, 2004. The proposed interim targets shall be developed by the Secretary of the Army and the Governor, in consultation with the Department of the Interior, the Environmental Protection Agency, the Department of Commerce, the Miccosukee Tribe of Indians of Florida, the Seminole Tribe of Florida, the Florida Department of Environmental Protection, and other Federal, State, and local agencies, and the South Florida Ecosystem Restoration Task Force. In considering the interim targets, the

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Secretary of the Army and the Governor, shall be provided with, and consider, the technical recommendations of RECOVER and any modifications to those recommendations by the Corps of Engineers or the South Florida Water Management District. The Secretary of the Army shall provide a notice of availability of the proposed interim targets to the public in the FEDERAL REGISTER and seek public comments. After considering comments of the public on the proposed interim targets, and incorporating any suggestions that are appropriate and consistent with the goals and purposes of the Plan, the Secretary of the Army and the Governor, shall establish the final interim targets, and the Secretary of the Army shall provide a notice of availability to the public in the FEDERAL REGISTER by no later than December 13, 2004, but not prior to the execution of the Interim Goals Agreement pursuant to § 385.38. Interim targets are intended to facilitate inter-agency planning, monitoring, and assessment throughout the implementation process and are not standards or schedules enforceable in court.

(2) In developing its recommendations for interim targets, RECOVER shall use the principles in paragraph (b) of this section.

(3) The Secretary of the Army and the Governor shall review the interim targets at a minimum every five years beginning five years after the establishment of the interim targets to determine if they should be revised and to determine what those revisions should be. The public shall also be provided with an opportunity to comment on the proposed revisions. The Secretary of the Army and the Governor may also revise the interim targets whenever appropriate as new information becomes available. Any revisions to the interim targets shall be established consistent with the process described in this section.

§ 385.40 Reports to Congress.

(a) Beginning on October 1, 2005 and periodically thereafter until October 1, 2036, the Secretary of the Army and the Secretary of the Interior shall jointly submit to Congress a report on the implementation of the Plan as required

by section 601(l) of WRDA 2000. Such reports shall be completed not less often than every five years.

(b) This report shall be prepared in consultation with the Environmental Protection Agency, the Department of Commerce, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, the Florida Department of Environmental Protection, the South Florida Water Management District, and other Federal, State, and local agencies and the South Florida Ecosystem Restoration Task Force.

(c) Such reports shall include a description of planning, design, and construction work completed, the amount of funds expended during the period covered by the report, including a detailed analysis of the funds expended for adaptive management, and the work anticipated over the next five-year period and updated estimates of total cost of the Plan and individual component costs and an explanation of any changes from the initial estimates contained in the “Final Integrated Feasibility Report and Programmatic Environmental Impact Statement,” dated April 1, 1999.

(d) In addition, each report shall include:

(1) The determination of each Secretary, and the Administrator of the Environmental Protection Agency, concerning the benefits to the natural system and the human environment achieved as of the date of the report and whether the completed projects of the Plan are being operated in a manner that is consistent with the requirements of section 601(h) of WRDA 2000;

(2) Progress towards the interim goals established in accordance with § 385.38 for assessing progress towards achieving the benefits to the natural system;

(3) Progress towards interim targets for other water-related needs of the region provided for in the Plan established pursuant § 385.39 for assessing progress towards achieving the benefits to the human environment; and

(4) A review of the activities performed by the Secretary pursuant to section 601(k) of WRDA 2000 and § 385.18 and § 385.19 as they relate to socially